

NYSERNet

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January 22, 1997

Office of the Secretary
Federal Communications Commission (FCC)
Room 222
1919 M Street, N.W.
Washington, DC 20054

RE: CC Docket No. 96-263 Usage of the Public Switched Network by Information Service
and Internet Access Provider

Dear Sir:

NYSERNet Inc., is a not-for-profit organization, supplying Internet networking services to higher education, research institutions, primary and secondary schools, and other (generally public service) organizations principally in New York State. Since 1984 NYSERNet has focused on supporting ubiquitous Internet access for our user community within New York State. In this capacity we have fostered the growth of Internet services to a wide range of public and private sector users through their use of dial access and leased line connections to the Internet.

We support the tentative conclusion of the Commission in Section VII.B(283) "[T]hat the existing pricing structure for information services should remain in place at this time."¹ Application of Interstate access charges to the existing competitive market has the potential to both hamper the overall growth of the industry and place economic barriers on access for low income users. We believe that the Commission is demonstrating proper judgement and prudence by not applying this rate structure to Internet Service Providers at this time.

¹ CC Docket No. 96-263, "Usage of the Public Switched Network by Information Service and Internet Access Provider", Dec. 23, 1996, ¶283.

Although the industry currently includes offer 2000 companies² a large percentage of these are small re-sellers of service who rely extensively or, in many cases, exclusively on dial access services for profitability. It is likely that a significant percentage of these service providers will leave the industry over time as the result of evolving technology and competitive business pressures. The Commission, by limiting its regulatory influence in this instance, will allow these competitive forces to continue to drive and nurture this expanding industry rather than the artificial barriers introduced by regulation.

The result of applying Interstate access charges in areas where competition is prevalent could result in the artificial creation of a dominant dial access service provider. The existing competitive market has the potential of being captured by the provider who can absorb these additional costs, forcing other service providers out of the market through dwindling market share.

In high cost and/or rural areas where competition does not currently exist, additional access fees have the potential to eliminate access altogether. In areas such as these where a high percentage of users are already paying multiple message units or toll charges, the additional costs associated with interstate access charges may make access unaffordable. The increase in cost has the potential to reduce overall subscriptions to the point where it is no longer economically justifiable for service providers to support dial access in these areas.

It has been our experience that a large number of K-12, libraries and not-for-profit organizations utilize dial access as their only Internet service. The use of dial access rather than dedicated access in many of these cases is driven by cost, rather than the institution's application requirements. Increased access charges would negatively impact those users whose budgets are already pushed to the limit, forcing them to choose between Internet access or other program requirements. The impact on these institutions would be seen in the form of increased costs passed along by service providers and by a reduction or elimination of dial access services as service providers are eliminated from high cost or marginally profitable areas.

Institutions and many low income private users located in these areas would be faced with increased message unit or toll charges or the requirement to upgrade their access to costly dedicated access services. The result will be further disparity between the Internet access capabilities for rural and poor communities and their urban or suburban counterparts.

² *Id.*, ¶285.

Reply Comments of NYSErNet, Inc.
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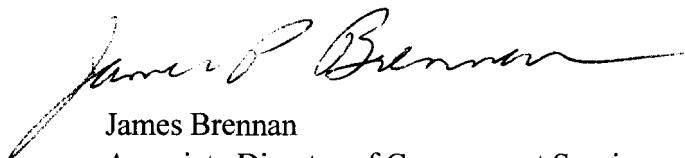
These examples of the impact on the existing industry and its most vulnerable customers, although not addressing the specific technical issues raised by the local exchange carriers, are important considerations for the Commission's final decision.

We also propose that any effort to address the impact of modem to modem communications on the public switched telephone network should consider all aspects of these services, not just Internet access. There currently exists numerous applications other than Internet access which require switched access from an end user's computer or terminal to a modem at another location. Telecommuting, and remote dial access to host computers are just two examples of modem to modem communications which do not include or require Internet access but which have the same potential impact on the network and which will continue to grow in use. The NRIC's³ efforts should not be so narrow in focus as to include just Internet access in its analysis but should consider other modem to modem applications and the impact of new technologies on this environment.

At this time we support the Commission's tentative conclusion in this matter and encourage that interstate access charges not be applied for Internet Service providers.

Respectfully submitted,

NYSErNet, INC.

A handwritten signature in dark ink, appearing to read "James P. Brennan", with a long, sweeping horizontal line extending to the right.

James Brennan
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³ Id., ¶287.